

Some banking lawyers say they doubt the OCC will use that interpretation to allow real estate brokerage.

"Finder authority had been on the books for years, and that never was perceived or regarded as giving national banks authority to sell insurance as an agent or broker on an unrestricted basis," said Ken Ehrlich, a lawyer with Nutter McLennen & Fish LLP in Boston.

But real estate brokerage may be consistent with the business of banking, he said.

"National banks by virtue of the business they conduct every day are arguably fully equipped to get into the real estate brokerage business and do it well without raising any safety-and-soundness issues, significant consumer protection issues, and without a whole lot, if any state regulation," Mr. Ehrlich said.

An OCC spokesman would not discuss its plans, but in the past agency officials have said they are not contemplating the extension of real estate brokerage powers to national banks.

Realtors say they want certainty.

"Everything that they've said in testimony, everything that they've said publicly, we just want them to put in some sort of official format that we can rely on for the future of our industry," Ms. King said.

The threat is imminent, because banking companies "want to put real estate people in the bank or the operating subsidiary," she said. "They want to put them as close as they can to the loan, the mortgage transaction."

Doing so would be anticompetitive, Ms. King said. OCC preemption—which a Connecticut judge said last week extends to operating subsidiaries—would give the mortgage arms of large banks "a free pass on all these state laws and registrations and licensing," and "our members aren't going to be able to play in that field."

Banking lawyers took the opposite view.

"The Realtors' position is anticompetitive," said Melanie Fein, a lawyer at Goodwin Procter LLP in Washington. "Just like the securities industry, the insurance industry, the data processing industry, the courier industry, they all have fought against bank involvement."

The group is behaving "like Chicken Little," but "the sky is not going to fall—and if it does fall, it would be to the benefit of consumers," she said.

Realtors say they would stand down in this battle if the OCC were to write regulations keeping banks out of real estate brokerage. They also said that if the long-pending Fed-Treasury proposal disappeared, the Realtors' opposition to OCC preemption would disappear with it.

(The proposal has been on hold, because the Realtors have successfully lobbied for enactment of spending bills the last two years that have barred the Treasury from using its budget to finalize the proposal.)

"We almost view this thing as the Trojan horse at the gates," said Joseph Ventrone, the trade group's managing director of regulatory and industry relations. If the Fed and the Treasury were to drop their December 2000 proposal, "our vehemence on OCC" preemption "would not be as strong, would probably not be at all."

To some, that's evidence that the Realtors do not have a legitimate beef with the preemption rules.

The group "developed a strategy where they believe they can use the debate going on today about preemption to insulate themselves from competition from the national bank industry," said Howard Cayne, a lawyer with Arnold & Porter LLP in Washington. "But they don't have an inherent interest in preemption."

Perhaps not, but their stance on preemption has made for unusual politics.

The group is allied with state bank regulators against preemption, even though they continue to disagree about whether banks ought to have real estate brokerage powers. More than 30 states have said that banks may offer such services, but few banks have done so.

"We share some fundamental, common beliefs," including "that major changes in public policy should come from legislative bodies, and shifts in applicable state and federal law should be clearly intended by Congress," said John Ryan, an executive vice president at the Conference of State Bank Supervisors. "Our appeal is philosophical; theirs is dollars and sense," but regardless, "they are influential businessmen in their local communities, and they are influential in the political process."

Donald Lampe, a lawyer with Womble Carlyle Sandridge & Rice PLLC in Greensboro, N.C., said the emergence of the realty group on preemption "changes the dynamic" of the debate.

"That they have stood up and raised their hand over these rules is a significant event," he said. "That doesn't mean that I think they are correct, but the Realtors cannot ever be ignored in this town."

That banks and real estate agents will continue to spar seems certain.

Banks "have to continue to grow the portfolio; they need new lines of business," Ms. King said. "The best line of business right now and in the future is real estate. They already have insurance. They already have securities. Other than real estate, there's not a whole heck of a lot else out there."

TRIBUTE TO CAPTAIN SAMUEL G. BRYCE, USMC

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. HOUGHTON. Mr. Speaker, I rise today to recognize an exceptional officer of Marines, Captain Samuel G. Bryce. Captain Bryce will soon complete a highly successful two-year tour as the Marine Corps' Assistant Liaison Officer to the U.S. House of Representatives. It is truly a pleasure for me to recognize a few of his many outstanding achievements.

Captain Bryce entered our Corps as a private in January 1994 after graduating with honors from James Madison University in Harrisonburg, Virginia. After graduating Recruit Training at Parris Island, he went on to serve as an infantryman with the Marine Corps Security Force Company in Rodman, Panama where he participated in Operation Safe Haven, a humanitarian mission in support of Cuban migrants. He followed this tour with service as a Non Commissioned Officer with the illustrious Fleet Antiterrorism Security Team Company in Norfolk, Virginia. As a squad leader with F.A.S.T., then Corporal Bryce participated in Operation Fairwinds in Haiti, providing convoy and site security for U.S. supported nation-building projects. Shortly after returning from Haiti, his team was dispatched to Bahrain to establish security at U.S. Naval facilities in response to the Khobar Towers bombing. During his final months with F.A.S.T. he was promoted to Sergeant and selected for the Enlisted Commissioning Program.

In September of 1997 he attended Officer Candidate School. Upon graduation he was commissioned and then sent to the Basic Officer Course and the Infantry Officer Course. In November of 1998 he was assigned to the 1st Battalion, 5th Marine Regiment where he was given command of 3rd Platoon, Company C. In this capacity he deployed with his battalion as part of the 31st Marine Expeditionary Unit where he participated in Operation Stabilise in East Timor. Upon return he was assigned as commander of the 81 mm Mortar Platoon, which he led during a subsequent overseas tour with the 31st MEU. During his final year with the battalion, he served as the Executive Officer, and ultimately the Commanding Officer of Weapons Company.

Completing this tour in March 2002, Captain Bryce was assigned as the Marine Corps' Assistant Liaison Officer to the U.S. House of Representatives. For the past two years he has expertly represented the Marine Corps on Capitol Hill and contributed enormously to the success of the Liaison Office's mission. His skills and diligent attention to duty enabled him to successfully lead five Staff Delegations to every major Marine Corps facility in the United States, assisting Congressional staff in learning how the Marine Corps fights, trains, and lives. The reputation he earned on these evolutions was such that he was also given the task of leading several Congressional Delegations overseas, including my own to Malaysia and the first into Haiti after the new President took power.

The real strength or Captain Bryce's time on Capitol Hill was felt through his education and outreach activities. He organized monthly briefs for staff members to assist them in understanding the capabilities and program needs of the Corps, and was the driving force behind the Capitol Hill Running Club. Under his leadership the club grew to nearly 100 runners and has seen unprecedented success in preparing members for running the Marine Corps Marathon. As he leaves, there will be a large gap for the Marine Corps to fill on Capitol Hill. His initiative, leadership, and tireless efforts as the Assistant House Liaison Officer have had a lasting impact on improving the war fighting capabilities and the quality of life for Marines throughout the Marine Corps. Most importantly, he has epitomized all of those qualities that America has come to expect of her Marines—absolutely impeccable integrity, moral character and professionalism.

As he reports to his next assignment as a student at the Expeditionary Warfare School in Quantico, Virginia I want wish him, his lovely wife Stacey, and their new son Griffin continuing success. Fair winds and following seas, Marine.

CELEBRATING THE 50TH ANNIVERSARY OF FORT UNION NATIONAL MONUMENT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 15, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize the upcoming 50th anniversary of the legislation that created Fort Union National Monument in my home state of